IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 8441 of 1995

Between:

Smt.Syed Hafizunniza W/o. late Hasim, aged about 40 years,
R/o.Markapur, Prakasam District.

..... PETITIONER

AND

The Mandal Revenue Officer,
Markapur, Prakasam District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, particularly one in the nature of mandamus declaring the action on the part of the respondent in not referring the matter to the Civil Court under Section 18 of the Land Acquisition Act, in respect of the petitioner, having referred the matter in respect of the other co-sharers in pursuance of the statement of apportionment of compensation appended to the award bearing Rc.No.1050/88, Dt.31/7/1991 as illegal, arbitrary, capricious and malafide.

Counsel for the Petitioner: MR.M.SUBBA REDDY

Counsel for the Respondent : GP FOR LAND ACQUISITION.

The Court made the following :

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THE HONOURABLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.8441 of 1995

ORDER:

This writ petition is filed questioning the action of the respondent in not referring the matter to the Civil Court under Section 18 of the Land Acquisition Act, in respect of the petitioner, having referred the matter in respect of the other co-sharers in pursuance of the statement of apportionment of compensation appended to the award bearing Rc.No.1050/88 dated 31.07.1991.

As per the averments made in the affidavit filed in support of the writ petition, the land belonging to mother-in-law of the petitioner viz., Syed Khasim Bee w/o.late Kamal Sab, to an extent of about Ac.4.02 ½ cents, out of the total extent of Ac.13.90 cents in Survey No.451/2 situated at Markaur, Prakasam District, was acquired by the respondent for the purpose of allotting house sites to the poor and possession of the same was taken on 12.08.1989 by issuing Section 4(1) Notification, published in the Gazette dt.06.07.1989 under the Land Acquisition Act. That over an extent of Ac.9.73 cents, houses were constructed and handed over to the beneficiaries and the land acquisition proceedings were elapsed. During the pendency of said proceedings, mother-in-law of the petitioner expired, leaving behind three sons and two daughters. After, issuing Section 9(1) and 10 notices to the legal representatives of the deceased and after publication, an Award was passed by the then Land Acquisition Officer and Mandal Revenue Officer, Markapur on 31.07.1991 awarding compensation of Rs.2,45,460/- for Ac.4-02 ½ to all the legal heirs of the late Syed Khasim Bee and the same was apportioned at the rate of two shares for the sons and one share for each daughter. Not satisfied with the amount of compensation awarded, all the legal representatives of the late Syed Khasim Bee, including the

husband of the petitioner requested the respondent to refer the matter to the Civil Court for enhancement of the compensation and received the award amount under protest.

Having not satisfied with the amount awarded by the Land Acquisition Officer, the petitioner alleged to have requested the respondent to refer the matter to the Competent Civil Court under Section 18 of the Land Acquisition Act. However, the case of the petitioner was not referred to the Civil Court and the cases of the other co-sharers were referred to the Civil Court. Thereupon the petitioner said to have issued a legal notice on 28-7-1994 and the same was received by the respondent on 29-7-1994. Complaining that no action is taken thereon, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

It is to be noted that the Writ Petition was admitted as far back as on 26.04.1995 and no counter affidavit is filed till date, though nearly nine years have been elapsed. In the absence of counter affidavit refuting the averments made by the petitioner,
it is deemed that the averments made by the petitioner are true and correct and matter is being disposed of based on the material available on record.

Having received legal notice dated 28-7-1994 issued by the petitioner and having referred the matter of other co-sharers to the Civil Court under section 18 of the Land Acquisition Act, the action of the respondent in not referring the case of the petitioner is not justified.

In the circumstances, the writ petition is allowed, directing the respondent to refer the case of the petitioner also to the competent Civil Court under Section 18 of the Land Acquisition Act. No costs.

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N.V.RAMANA, J.

Dated:25th August, 2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Wednesday, the Twenty fifth day of August, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Mandal Revenue Officer, Markapur, Prakasam District.
2. Two C.Cs. to the Government Pleader for Land Acquisition, High Court Buildings, Hyderabad (O.U.T.)
3. Two C.D. copies.